


Below is an Order of the Court.


PETER C. MCKITTRICK
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In Re:)	
PETER SZANTO,)	Bankruptcy Case No.
)	16-33185-pcm7
Debtor.)	
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PETER SZANTO,)	Adversary No. 16-3114-pcm
)	
Plaintiff,)	ORDER DENYING MOTION TO CORRECT
)	COURT'S CLERICAL MISTAKES
v.)	(DOC. 355)
EVYE SZANTO, VICTOR SZANTO, NICOLE)	
SZANTO, KIMBERLEY SZANTO, MARIETTE)	
SZANTO, ANTHONY SZANTO, AUSTIN)	
BELL, JOHN BARLOW, and BARBARA)	
SZANTO ALEXANDER,)	
Defendants.)	
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Plaintiff moves for "correction" of the court's April 25, 2018, Order re: Plaintiff Peter Szanto's Notice of Election for Entry of Final Judgment by District Court. The court has reviewed plaintiff's motion and determined that a hearing is not necessary.

Plaintiff argues that the order, which denied plaintiff's attempt to

1 withdraw his consent to entry of final judgment by the bankruptcy court,
2 was a result of either his or this court's mistake, inadvertence, or
3 excusable neglect, citing Fed. R. Civ. P. 60. That rule is made
4 applicable to this adversary proceeding by Fed. R. Bankr. P. 9024. It
5 allows a court to correct clerical mistakes, Fed. R. Civ. P. 60(a), or
6 grant a party relief from a judgment or order for, among other things,
7 "mistake, inadvertence, surprise, or excusable neglect[.]" Fed. R. Civ.
8 P. 60(b).

9 Although plaintiff's motion is not entirely clear, he seems to make
10 three arguments, each of which lacks merit.

11 First, he argues that, because defendants failed to include a
12 statement in their responsive pleading that they consent to entry of
13 final orders or judgment in this court, this court is without authority
14 to enter such judgment. This argument fails. Whether defendants
15 consented to entry of final judgment by the bankruptcy court does not
16 affect whether plaintiff can withdraw his express and implied consent.
17 In any event, counsel for defendants expressly consented to entry of
18 final judgment in bankruptcy court at the same hearing in which plaintiff
19 expressly consented.

20 Second, plaintiff argues that he lacked standing to consent until
21 this adversary proceeding was abandoned by the chapter 7 trustee. This
22 argument is frivolous. Plaintiff had standing when he filed this
23 adversary proceeding and expressly and impliedly consented to entry of
24 final judgment by the bankruptcy court. He temporarily lost that
25 standing only when the case was converted to chapter 7. When the trustee
26 abandoned the adversary proceeding, his standing was restored.

1 Third, he argues that defendants have withdrawn the reference of
2 this complaint to the District Court in California. Again, this is a
3 frivolous argument. Defendants sought to compel Susan Szanto to comply
4 with a deposition subpoena. Because Susan Szanto resides in California,
5 defendants were required by Fed. R. Civ. P. 45 to seek enforcement of the
6 subpoena in the California District Court.

7 Plaintiff also says that his consent was obtained when he was under
8 the mistaken impression that this court would fairly adjudicate his
9 claims, and that he now believes this court is biased against him. This
10 argument is not supported by the record, and in any event, would not
11 support withdrawing consent to entry of final judgment in bankruptcy
12 court.

13 Therefore,

14 IT IS HEREBY ORDERED that plaintiff's Motion to Correct Court's
15 Clerical Mistakes is DENIED.

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17 cc: Peter Szanto
18 Nicholas Henderson
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